

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

YVONNE A'RAE LAISURE-RADKE,
et al.,

Plaintiffs,

v.

BARR LABORATORIES, INC., *et al.*,

Respondent.

CASE NO. C03-3654RSM

ORDER REQUESTING REPORT FROM
GUARDIAN *AD LITEM*

Former plaintiff, Yvonne A'Rae Laisure-Radke, initially brought this lawsuit on behalf of herself and as individual representative of her late husband's estate. She alleged that her husband, Douglas Radke, committed suicide while under the influence of the antidepressant drug fluoxetine, which is the generic version of Eli Lilly's Prozac. Defendants manufacture, distribute and market the generic drug. Plaintiff essentially asserted that defendants were aware of an increased risk of suicidality in users of the class of antidepressant drugs within which Fluoxetine lies, known as selective serotonin reuptake inhibitors ("SSRIs"), well before the death of Ms. Laisure-Radke's husband, but did not adequately warn of that risk.

On June 22, 2006, this Court dismissed Ms. Laisure-Radke as a plaintiff in this action due to her failure to disclose this action during her bankruptcy proceedings. (Dkt. #176). However, before

1 the Court closed the case, it asked the parties to submit briefing as to the possibility of a substitute
2 plaintiff. Ms. Laisure-Radke then filed a motion to amend asking that Briana Radke, Mr. Radke's
3 daughter from a prior marriage, be substituted as plaintiff in this action. That motion was briefed by
4 the parties; however, before the Court ruled on the motion, defendants filed a motion to appoint
5 guardian *ad litem* for Mr. Radke's son, Theo Radke.¹

6 On August 28, 2006, the Court granted defendants' motion, and appointed a guardian *ad litem*
7 for Theo Radke. (Dkt. #192). At the same time, the Court removed the motion to amend from the
8 Court's motion calendar, and directed the parties to meet with the guardian *ad litem* and then jointly
9 advise the Court whether the motion to amend should be replaced on the motion calendar.

10 On February 1, 2007, this Court asked the parties to file a Joint Status Report advising the
11 Court of the status of this case, whether any pending motions should be replaced on the Court's
12 motion calendar, and whether the Court should issue a revised scheduling Order with respect to a new
13 trial date in this action. The parties have since filed that report. The parties advise the Court that the
14 guardian *ad litem* has not yet reported her recommendations for this case, and ask the Court to direct
15 her to file such report within 30 days of this Order. The parties then ask that, should the guardian *ad*
16 *litem* decline to recommend settlement, the Court replace the pending motions on the motion calendar
17 and schedule this action for trial. Ms. Laisure-Radke also informs this Court that she plans to file a
18 motion to sever her claims from any remaining claims.

19 Accordingly, the Court hereby ORDERS:

20 (1) Guardian *ad litem* Jo-Hanna Read is directed to file a report with her recommendations in
21 this action no later than thirty (30) days from the date of this Order.

22 (2) The Court will review that report and issue a further scheduling order if necessary at that

23 ¹ The Court acknowledges that there is a pending motion to file a sur-reply related to the
24 motion to amend, which the Court will address if and when that motion is replaced on the Court's
25 motion calendar.

1 time.

2 (3) The Clerk is shall forward a copy of this Order to guardian *ad litem* Jo-Hanna Read, and
3 to all counsel of record.

4 DATED this 16th day of February, 2007.

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7 RICARDO S. MARTINEZ
8 UNITED STATES DISTRICT JUDGE
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